



CENTRAL EUROPEAN UNIVERSITY
CENTER FOR POLICY STUDIES



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KONSTANTIN KRASOVSKY

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2003/2004

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The problem

Why does tobacco advertising attract the attention of society? What is the essence of the problem? It could seem that tobacco advertising is just one kind of advertising, that protests are directed against advertising in general, and that any advertising represents a problem. But a ban on tobacco advertising is not to be used as a pretext for the restriction of advertising as a whole. It could seem that the problem is irritation that could be caused by any kind of advertising - for instance, the advertising of feminine hygiene products greatly irritates some men, but they do not appeal for ban of this kind of advertising. It could seem that the claims against advertising tobacco as a product dangerous to one's health should be concurrent with claims against the advertising of other products considered to be potentially dangerous to one's health, such as automobiles, coffee, or hamburgers. However, the basic problem is not simply the effect of tobacco on one's health, but the magnitude of this effect. According to data provided by the World Health Organization, presently about five million people die of tobacco related diseases annually worldwide, including more than 100,000 in Ukraine. This huge loss justifies taking measures that, even to a small extent, can reduce it. Since the number of these deaths is proportional to the consumption of tobacco products, measures that reduce tobacco consumption are justified.

Sometimes the opinion is expressed that the tobacco advertising does not influence the total amount of tobacco consumption and serves only for competition among tobacco brands. Much research has been carried out in order to check this hypothesis. The results were generalized by the World Bank and the World Health Organization, and revealed that: 1) a decrease or increase in the total advertising volume has very little to do with the total consumption of tobacco products, especially in developed countries; 2) a comprehensive advertising ban reduces the consumption of tobacco. The Framework Convention on Tobacco Control provided the conclusion to this discussion. The final text of the Convention, unanimously approved by the World Health Assembly on May 21, 2003 by delegations from all countries including Ukraine, declares that: " Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products ". Thus, the basic problem is that the presence of tobacco advertising essentially worsens the health of the population.

Another pressing concern is that tobacco advertising actually promotes smoking among children and teenagers, therefore undermining the preventive efforts of government services. Whatever the tobacco industry may claim, it has to advertise cigarettes to children in order to survive, as it needs to replace those thousands of adult smokers that quit smoking or die.

Tobacco advertising is often paired with alcohol advertising, as is true in the law on advertising in Ukraine. Taking into account that, according to data provided by the World Health Organization, alcohol is not less harmful to one's health (for example, in the World Health Report of 2002, tobacco takes fourth place among the major factors of death, and alcohol takes fifth), the approach to alcohol advertising should not essentially differ from the approach to tobacco advertising. However, taking into account some important features, the given work is devoted only to tobacco advertising.

The international experience of regulating tobacco advertising

When considering the problem of regulating tobacco advertising, it is necessary to take into account that basic knowledge about the extent that tobacco affects one's health was only provided by researchers in the 1960s. The awareness of tobacco-related harm makes it requisite that authorities adopt measures to reduce this harm. Among the considered policies, the regulation of tobacco advertising up to a complete ban is inevitably present. Because of a lack of experience in introducing such measures, it is difficult to estimate their efficiency and side effects. The most well-known venture of this kind is the ban on tobacco advertising that was approved in Norway in 1975, which was preceded with intensive debates. The study, which takes into account 15 years of results of the tobacco advertising ban in Norway, has revealed that the arguments of the advertising supporters are inaccurate, and that the accepted decision was indeed valid. This positive experience has encouraged other countries to forbid tobacco advertising as well. These countries include Italy, Iceland, Finland, Portugal New Zealand, Australia, Thailand, France, Sweden, Turkey, Belgium, Poland, Ireland, Hungary, Malaysia, Denmark, Vietnam, Netherlands, Cyprus and others. The latest example is a ban on tobacco advertising in the United Kingdom, which entered into force on February 14, 2003. At the end of 2002, a Directive banning most kinds of tobacco advertising was adopted by the European Union. A report from the International Union against Cancer (UICC) concluded that the banning of advertising had been followed by a decrease in smoking on a scale that could not reasonably attributed to other factors (see Table 1).

Table 1. The effectiveness of tobacco advertising ban

Country	Date of ban	Fall in consumption by 1996
Norway	1 July 1975	- 26%
Finland	1 March 1978	- 37%
New Zealand	17 December 1990	- 21%
France	1 January 1993	- 14%

It is worth pointing out that in all developed countries the process regulating tobacco advertising moved only to tougher regulations: from partial restrictions to a comprehensive ban, although on some occasions court decisions slowed this process down or took other forms. For example, when the Supreme Court of Canada abolished some key points of legislation on their advertising ban, the government decided to introduce such restrictions on all forms of advertising, so that, although tobacco advertising is formally allowed in Canada, it has become almost imperceptible.

The generalization of global experience is expressed in the text of the Framework Convention on Tobacco Control: " Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship".

A history of tobacco advertising regulation in Ukraine

In centralized USSR economics, advertising practically did not exist, and consequently tobacco advertising was not forbidden; it was simply absent. With market transformations, this kind of advertising appeared and at once received a negative public reaction. Soon after, this reaction was reflected in the law "The basics of legislation on health protection", which was adopted in 1992 by the Supreme Rada of Ukraine. Article 32 of this law declared a total ban of tobacco advertising in any form and at that time it had no exceptions. Unfortunately, the law did not contain the mechanism necessary to enforcement it, and so it was violated rather often. Therefore in December 1994 the President of Ukraine issued the Decree 723/94, which forbade advertising "of tobacco products, alcoholic drinks and other products, unhealthy for human beings". This Decree was to be replaced by a law on advertising. During those years, the situation in the Ukrainian tobacco market changed dramatically. By 1995 the transnational tobacco corporations already controlled over 90 % of cigarette production in Ukraine, and for further expansion needed to use advertising. Thus they began an expensive lobbying campaign, using all possible means. In 1995 all members of the Supreme Rada had received the document named "Questions and answers about the possible consequences of a tobacco advertising ban in Ukraine", prepared by a so-called Association of Independent Advisers for Reviving the Ukrainian Tobacco Sector. There was in fact no such association. Later Michael Parsons, a spokesman for Philip Morris International, acknowledged the company's authorship (Washington Post, November 19, 1996). This document included a forecast of consequences that would arise from a ban of tobacco advertising in Ukraine, which stated that if the ban were enacted, Ukraine would lose 400 million dollars. An analysis of this forecast revealed that it was badly grounded. Nevertheless, as a result of the expensive lobbying of the tobacco companies, the parliament Committee of the Supreme Rada on information and mass media prepared a draft Law on advertising containing only insignificant restrictions on tobacco advertising (for example, limited advertising on radio and TV was permitted). However, during the final reading of the law on March 6, 1996, the Supreme Rada supported the amendment of the MP Sergey Pasko about a complete ban of alcohol and tobacco advertising. The law was then to the President to be signed, and the campaign of the supporters of tobacco advertising reached its peak. As a result, the President vetoed the law, although an analysis of the text of the veto shows that the President was deliberately misinformed (for example, it was noted in the text that tobacco advertising will come to Ukraine from Russian broadcasting companies, while tobacco advertising on TV in Russia was already forbidden). In May 1996 the Supreme Rada discussed the President's veto and, while the majority of the deputies supported the advertising ban, they were unable to overcome the veto. In July 1996 the compromise proposal was adopted by the parliament without discussion: tobacco advertising was forbidden only on radio and TV.

Till 2001 the opposition of the supporters and opponents of tobacco advertising has not ceased, but no party could change the legislation. In June 2001 the Cabinet of Ministers of Ukraine adopted the Conception of the governmental tobacco control policy, which states that the legislation should be improved and in particular "with the purpose of restriction and gradual ban of advertising of tobacco products ". In November 2001 the Supreme Rada considered amendments to the law on advertising. In spite of the fact that some deputies offered to include a complete tobacco-advertising ban into the law, the mass media committee presented the draft law for final consideration, which offered only small changes to the existing law. However, while considering the law, the deputy Yuriy Sakhno insisted on voting his amendment on banning

alcohol and tobacco advertising. The deputies, as was true in 1996, supported the amendment. The law again was sent to the President for his signature, and the President again vetoed the law. But this time the motives of the veto were quite different. Sakhno's amendment actually required an immediate liquidation of tobacco and alcoholic advertisements, and the President, having declared that he basically supports the ban, offered to enter it into force on January 1, 2003. Unfortunately, when the Supreme Rada considered the President's veto on February 7, 2002 it neither overcame the veto, nor supported the President's amendments, and the law was completely lost. The new Supreme Rada, elected in March 2002, has also become engaged in this issue, and some amendments to the advertising law were offered, and one of them (deputy Leonid Chernovetsky) proposed a complete ban of alcohol and tobacco advertising. Unfortunately, the mass media committee again presented parliament with the draft law (presented by the deputies Juriy Artemenko, Nikolay Bagraev and Olexander Omelchenko), which again has no actual changes in regulation of tobacco advertising.

Policy options

There are four possible options to address the problem of tobacco advertising in Ukraine:

1. The easing of tobacco advertising restrictions (for example, cancellation of a complete ban of television advertising with advertisement broadcasting in night hours);
2. The preservation of present legislative regulation with insignificant changes;
3. The introduction of stricter restrictions (for example, a ban on advertising tobacco trade marks or a ban of billboards);
4. A complete ban on tobacco advertising.
5. For further consideration we shall name these alternatives as follows: easing, preservation, toughening, and ban.

Each of these options has supporters and opponents. The acceptance of each of these options will have direct and indirect consequences for the various interested parties. Let's consider the various opinions about these consequences.

Public health

Since we have defined the problem of tobacco advertising as a problem of the basic deterioration of population health, the criterion of public health becomes essential. The research that has been conducted in countries that have used approaches similar to the four alternatives offered above have revealed that first three options do not encourage a reduction in tobacco consumption and that only the ban can give the desired result. The toughening of restrictions can be considered positively only if it is used as a step to a complete ban and is perceived as concern on the part of the authorities about people's health. This kind of toughening can affect some smokers, and they might decrease their tobacco consumption. Nevertheless, in comparison with the ban, the effectiveness of toughening would be minimal. To decrease the consumption of tobacco products, this ban should not just consist of a vague declaration; it should cover direct and indirect advertising, as well as advertising through sponsorship.

In Ukraine, for obvious reasons, public research on the effects of advertising on tobacco consumption was not conducted. However, available data on tobacco consumption reveal adverse trends. In the 1990s, experts estimated the total cigarette consumption (including

smuggling) to be from 65 to 75 billion cigarettes annually. In 2002, the legal consumption of cigarettes (production - export + import) has reached 80 billion cigarettes.

It is difficult to predict what kind of reduction in cigarettes consumption could be expected in Ukraine as a result of a ban on tobacco advertising. In the UK, the government has estimated that its advertising ban will decrease tobacco consumption by 2.5 % and will save 3,000 lives annually. According to the World Bank [1], if comprehensive bans were in place, tobacco consumption would fall by more than 6 %.

If the tobacco-advertising ban will reduce the total tobacco consumption in Ukraine by 1% only, it will mean that more than 1,000 human lives will be saved annually. From the public health view, it is an extremely effective measure. It is hardly possible to find other legislative measures that would have a similar result while not requiring any governmental expenses.

The advertising business

The main argument against a ban on tobacco advertising is a possible income reduction in the advertising business. This argument is based on the share of tobacco advertising within the total amount of advertising services, in which, for example, for billboards can account for up to 30%.

This argument ignores the fact that the advertising market is dynamic, and that other advertisements will appear and take the place of tobacco advertisements. The experience of the countries that have introduced advertising bans reveals that the advertising business as a whole does not suffer. Research that has been conducted in countries such as Norway, Portugal, Canada, Hong Kong, Thailand, South Africa and Poland demonstrate that, following a ban on tobacco advertisements, the total volume of the advertising market has even shown grown. For example, in 1995 the president of the Outdoor Advertising Association of Canada, Bob Reaume, stated: "the Tobacco Products Control Act was arguably one of the best things to ever happen to our industry. It so drove our members to develop other advertising categories that, today, packaged goods clients, not tobacco, are our largest spending group, and the loss of tobacco revenues has been completely recouped and then some" (Marketing, 6.11.1995). It is even more important that there is no research that convincingly proves that these ban had a negative effect on the advertising business as a whole; otherwise the tobacco industry would have presented this research a thousand times over.

Any change of legislation on tobacco advertising will result in the redistribution of resources inside the advertising business. For example, the easing of restrictions can result in an outflow of resources to firms engaged in television advertising at the expense of firms dealing with billboards. The tobacco-advertising ban can be favourable to firms that are not engaged in tobacco advertising, as the demand for their services will increase. Thus, a small number of advertising agencies that specialize in tobacco advertising can go bankrupt. Now these firms dictate a line of behaviour for the entire advertising community, caring not about the prosperity of this community as a whole, but only about their own vested interests. They describe dark perspectives, for instance that the tobacco advertising ban will followed by other kinds of advertising bans, but, except for alcohol advertising, there are no examples of such developments in any country. The negative attitude of the population to any advertising activity is to some extent caused by aggressive tobacco and alcohol advertising.

It is therefore possible to conclude that any of the four offered options would result in the redistribution of resources between advertising companies, but would not affect the actual total amount of these resources. The tobacco advertising ban can cause some losses for advertising business at first, especially if there is an insufficient period of adjustment between the acceptance of the law and its implementation. Therefore, as the experience of other countries shows, it is reasonable to leave a temporary interval (for example, a year) between the acceptance of the law and its implementation. It is also possible to have different terms for different kinds of advertising. These kinds of terms provide opportunities for advertising businesses to adapt to new rules with minimal losses.

The mass media

It is often declared that money received from tobacco advertising can help the Ukrainian mass media survive. It is suggested, for example, to permit tobacco advertising on TV in order to attract additional income for less wealthy TV companies.

However, what is the source of such income? If any industry spends additional money for advertising, it expects that this money will be returned with a profit due to a sales increase. For the tobacco industry it is not simply a sales increase, but also a replacement for the smokers who quit or die, which is possible only by attracting a new generation of smokers - teenagers. Thus, the income for additional tobacco advertising in mass media can be taken only from pockets of teenagers, and they will also pay with their health.

It should be also noted that even tobacco companies have a limited advertising budget, and that the redistribution of advertising expenses from one media to other is more probable, for example, if restrictions are eased - from the newspapers to TV, and in a case of toughening, for example, ban of the trade mark advertising on TV, on the contrary. The opinion that tobacco-advertising incomes will make mass media more independent is hardly justified. Currently, various financial and industrial groups own almost all media outlets. Any change of tobacco advertising regulation will cause only some change of incomes among these groups, and will most likely have no effect on well-being of journalists (probably, except for the chiefs of mass media, whose income comes directly from advertising). Besides, the presence of tobacco advertising is often a means of censorship for effective anti-tobacco materials. There have been a lot of cases where mass media refused to publish anti-tobacco materials for fear of the probable loss of income from tobacco advertising. In any case, the incomes of tobacco advertising are just single percents in any media budget and it will be possible to replace these incomes by advertising of other goods. For example, in Norway, which has forbidden tobacco advertising since 1975, sales of advertisements to Norwegian newspapers during the 8 years before the ban annually went up by 3,9 %, as opposed to a 5,6 % increase in the 8-year period after the ban. Some media outlets voluntarily or under legal restrictions have refused tobacco advertising, and in the case of a complete ban, they will have an advantage when competing with other media. For example, the tobacco-advertising ban will strengthen positions of radio and TV in competition with printed media, which at present can use tobacco money.

Any of the offered options can result only in the redistribution of the incomes and influences between various kinds of mass media. Changes in the regulation of tobacco advertising would

have hardly any effect both on the total level of their incomes and the level of their independence.

In the present law on advertising, the allocation of a certain share of tobacco advertising expenses for anti-tobacco promotion is stipulated. However, from the public health position, it is hardly possible to consider this measure as effective. To weight down the effect of tobacco advertising, anti-tobacco promotion should be, as a minimum, equal to tobacco advertising in volume and quality, which is hardly possible. If the effect of anti-tobacco promotion was nevertheless higher than effect of tobacco advertising, the commercial sense to spend money for advertising would be lost if the conditions were to include the allocation of funds for anti-advertising. The real reasons for these kinds of allocation offers are the following. First, the mass media simply wants to receive money both for advertising and for anti-advertising, regardless of their effect. Secondly, this kind of allocation is a kind of a payoff for the opponents of tobacco advertising, and, unfortunately, some representatives from the public health community expressed readiness to accept this money. It means that they, as well as some representatives of the mass media, do not care about people's health, but only about their own material well-being.

The tobacco industry

For tobacco industry, advertising is vital. Cigarettes belong to a category of products that have no objective value for the consumer (except for the satisfaction of addiction), and the appeal of a specific brand to the consumer is totally based on its image. If this image is not supported, the consumer quickly loses interest in the product in general and in the brand in particular.

For the tobacco industry, the easing, preservation, and even toughening advertising regulation have no basic differences, as they can easily redistribute their advertising budget at the forms of advertising that are permitted. There are no data that the investments in television advertising pay off better than investment in other kinds of advertising; therefore the industry easily refuses television advertising to keep other kinds of advertising. Thus some tobacco firms even "voluntarily" refuse the most irritating forms of advertising, as they are afraid that these forms can strengthen the intention to introduce a complete advertising ban.

The tobacco industry is well aware that advertising promotes the growth of tobacco consumption and tobacco-related damage, while in a free market economy it is not capable of quitting advertising voluntarily because it makes a profit. This justifies the state regulation of tobacco advertising up to its complete ban.

If tobacco advertising only promoted the redistribution of brand shares in the tobacco market, the tobacco companies would support a ban, because it is altogether unreasonable to spend money on an activity that is profitable only at the expense of the competitors' losses. However, there are no precedents in the world for transnational tobacco companies supporting a complete ban on tobacco advertising. On the contrary, they use every argument possible to even defer the introduction of the ban. Taking into account absolute contradiction of interests of public health and the tobacco industry (accordingly, the decrease and increase of tobacco products consumption), the tobacco industry attitude to advertising once again emphasizes that for public health, only a complete advertising ban is meaningful.

It is necessary to distinguish the advertising directed at the consumer of the products from the advertising directed at the professional workers that deliver the products to the consumers (it is sometimes called internal industry advertising or professional information). The ban on advertising directed at the consumer of tobacco products (with the purpose of reducing the consumption of these products) is quite reasonable, especially in the long-term. However, internal industry advertising (for example, in professional publications) can serve to self-regulate the tobacco industry, and a ban of this form of advertising is hardly justifiable.

Another opinion often voiced on this matter is that the ban of advertising is favourable only to firms that have well known brands, and that a ban will cause the local brands to suffer. To express this idea in other words, for the firm it will be favourable to stop advertising expenses, which pay off with profit, due to sales increase. Actually, factories without the foreign investments that control only about 4 % of Ukrainian tobacco market spend very little money on advertising. If a ban on advertising were put into effect, consumers would start to choose their cigarette brand not only by its image, but also by other consumer properties. In this kind of situation local brands can gain an advantage over international brands.

Tobacco consumers

Tobacco advertising, as well as any other kind of advertising, is directed at the consumer. It is perceived that, due to advertising, a consumer makes a conscious choice as to which of the products are the most suitable for him, and, hence, a ban of advertising will deprive him of his choice. Actually, tobacco (and not only tobacco) advertising is basically made in such a way so as to make the consumer choose not consciously, but subconsciously. An analysis of tobacco advertising samples demonstrates that they usually do not contain the information necessary for a conscious choice - instead, only an attractive image is presented. It is possible to identify yourself with this image by buying the advertised cigarettes. Even if the presented information looks as if it is prompting a conscious choice (for example, it describes the properties of the filter or about tar and nicotine contents), this information, as scientific research has revealed, is usually misleading consumers. The consumer often believes that cigarettes with an advanced filter system or with low tar and nicotine contents are less harmful to his (her) health. In reality, this opinion has no scientific background. In short, all cigarettes are equally harmful to a consumer unless the opposite is proved.

The disappearance of tobacco advertising will be favourable to consumers, since they will be able to make their choice more consciously than before. To allow some consumers the opportunity to receive information about tobacco products, advertising can be permitted inside special shops that sell only tobacco products and goods directly related to tobacco. Minors' access to such shops should, of course, be forbidden. This kind of approach can stop the influence that tobacco advertising has upon children. Other forms of restrictions (such as bans disallowing tobacco advertisements from being placed closer than 100 meters from schools) are just imitations of the given approach.

Taking into account that the majority (65 %) of tobacco products consumers in Ukraine would like to stop consuming these products [6], for them a ban on advertising can be favourable, as it will facilitate their quitting smoking.

Public opinion

The population surveys that have been conducted concerning the regulation of tobacco advertising have resulted in the following data (Table 2). They reveal that the population obviously does not support the first alternative (easing), and that the third and fourth options (a toughening or a ban) are the most preferred. For some respondents, a negative reaction was caused by the very word "ban", and while understanding the harm of tobacco advertising, they support a toughening of restrictions instead.

Table 2. Population survey on tobacco advertising regulation in Ukraine

Year	Type of survey and the agency that conducted the survey		Number of respondents and their age		
	easing	For preservation	For toughening	For ban	
1999	The Global Youth Tobacco Survey, Kiev City, ADIC-Ukraine with support of WHO and UNICEF		4019, 13-16 years	4	19 34 43
2000	National representative survey, The Institute of Sociology		1797, 15 years and older	5	46
	There was no such question		49		
2002	National representative survey, The Institute of Social Research		2463, 15 years and older	3	21 28 48

Proceeding from these responses, public opinion holds that the most acceptable option is a combination of the third and fourth alternatives, which sometimes called a comprehensive or rational ban.

Governmental expenses

The acceptance of any legislative decisions on tobacco advertising has not caused any direct governmental expenses, however, subsequently such decisions can cause an increase or decrease in expense in order to enforce the accepted decisions. Enforcing an advertising ban has clear advantages, since it is much easier to enforce a ban than partial restrictions (Was the advertisement broadcast on TV before or after 11 p.m.? Was the billboard placed closer than 300 meters from school or not?).

Besides, as opposed to the first three options, an advertising ban would decrease the smoking prevalence, and the public health care expenses could be used more rationally. For example, in the UK it has been calculated that a ban of all cigarette advertising and promotion will save 3,000 lives a year and cut National Health Service bills by 340 million pounds (The Guardian, 21.10.2002).

Governmental revenues

Potentially, a ban on tobacco advertising can, although not very significantly, reduce public revenues since advertising agencies and the tobacco industry pay taxes, and if their productivity is reduced, they will pay less money to the governmental budget. Taking into consideration the probable extent of reduction in the advertising market and manufacturing of tobacco, the decrease in the governmental coffers, if it happens at all, will be limited. It is also necessary to keep in mind that all of these revenues are taken from smokers' pockets (including potential

smokers). Reducing tobacco production and tobacco advertising will cause a decrease in the amount of money that consumers spend on tobacco products, and the consumers can then use the saved money to purchase other goods upon which taxes also are paid. Besides having lowered the consumption of tobacco, consumers would become healthier, their productivity at work would grow, and the health service expenses would decrease. For the reasons discussed above (see Advertising business, Mass media and Tobacco industry), first three options have no basic differences concerning public revenues.

Therefore, while a ban on tobacco advertising can slightly reduce revenues at first, in the long-term the ban is the best option for growth of the public incomes and people's wellbeing.

Constitutional rights and duties

The opinion that a tobacco advertising ban violates such constitutional rights of the citizens as freedom of expression and access to information is not justifiable. Article 34 of the Constitution of Ukraine declares: "Everyone is guaranteed the right to freedom of thought and speech, and to the free expression of his or her views and beliefs. Everyone has the right to freely collect, store, use and disseminate information by oral, written or other means of his or her choice". But in the same Article it is written down: "The exercise of these rights may be restricted by law ... with the purpose of ... protecting the health of the population". Since we have defined the tobacco-advertising problem as a public health problem, clause 34 provides justification for restricting tobacco advertising up to a complete ban. It is worth noting that from the viewpoint of freedom of expression, there are no basic differences between minimal restrictions on tobacco advertising and its complete ban.

Giving priority to the interests of the tobacco industry and advertising businesses when considering the tobacco advertising problem contradict Article 13 of the Constitution of Ukraine which, in particular, states: "Property entails responsibility. Property shall not be used to the detriment of the person and society". Legislation on tobacco advertising should be based on provisions of the Article 3 in the Constitution of Ukraine, namely: " The human being, his or her life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value". Moreover, Article 27 unambiguously states: " The duty of the State is to protect human life". Research reveals that partial restrictions on tobacco advertising do not ensure a reduction in tobacco-related illnesses and deaths, and only a complete tobacco advertising ban can provide the government with the opportunity to fulfil its constitutional duties to protect the lives and health of the people as the highest social value.

International relations

From the international relations perspective, the first alternative, which provides an opportunity to broadcast tobacco advertising on radio and TV, can essentially damage the relations of Ukraine with neighbouring states. In Russia, Moldova, Hungary, and Poland such advertising is forbidden, and even its limited penetration from the territory of Ukraine (cross-border advertising) can cause official protests.

A tobacco advertising ban is fully in line with the modern international tendencies in this area. In 2002, the European Union accepted the directive on a complete ban of the main kinds of tobacco

advertising and sponsorship. It was partly due to the process of European integration that a ban on tobacco advertising was adopted in Poland, Hungary, and the Czech Republic. The text of the Framework Convention on Tobacco Control, approved by government delegations from 192 countries, also unambiguously declares a ban on tobacco advertising, and, after the Convention is ratified, Ukraine will have no other choice than to implement a comprehensive ban on tobacco advertising. The introduction of this kind of ban is supported by respected international organizations such as the World Health Organization, UNICEF, the World Bank, and others. By preserving tobacco advertising even with restrictions, Ukraine will be considered by the international community as a backwards country that does not care about public health. The introduction of a complete ban will promote the international authority of Ukraine.

Combined consequences of the considered options

Though we have defined the tobacco advertising problem as a public health issue, those who are involved in legislative decision-making will mostly be influenced not by the public health community, but their professional interests. Therefore everyone, including public health advocates, needs to consider the opinions of all of the interested parties. A balance of interests is the only conclusion that should be reached. However, where is this point of balance if the interests involved are sometimes directly opposed to each other?

To find this balance, we offer a speculative table. The perspectives discussed above are admittedly of an equal value, and for each of them the considered four policy options are estimated on a scale of values from 0 up to 4. Thus the sum of all values for each of the perspectives is equal to 5. Considering the above discussion, the distribution of values is shown in Table 3.

Table 3. Comparison of stakeholders' opinions on policy options of tobacco advertising regulation

Stakeholders opinions	Easing	Preservation	Toughening	Ban
Public health	0	0	1	4
Advertising business	2	1	1	1
Mass media	1	2	1	1
Tobacco industry	2	2	1	0
Tobacco consumers	1	1	1	2
Public opinion	0	1	2	2
Governmental revenues	1	1	1	2
Governmental expenses	1	1	1	2
Constitutional rights and duties	0	0	1	4
International relations	0	1	1	3
TOTAL	8	10	11	21

Certainly, the given estimations are subjective; however they proceed from the above discussion of the various perspectives and are in fact rather conservative.

A ban on tobacco advertising has a clear advantage over the other options, but nevertheless it loses out when the rest are combined. And while keeping in mind that the issue of tobacco

advertising should be given over to the public health, it is worthwhile to take the other perspectives into account and to offer an option that not only gives the desired outcome, but also satisfies the fair interests of other groups to a certain extent. The supporters of toughening and the ban can develop an option that will unite them. Let's call this option a comprehensive or rational ban.

A rational ban on tobacco advertising means that all kinds of direct and indirect advertising and sponsorship are forbidden, except for the kinds specially stipulated in the law. For example, in the Czech Republic, a bill seeking to ban tobacco advertising was approved in February 2003 by the Czech parliament, and it stipulates an opportunity to keep tobacco advertising in special tobacco shops and publications. In the same bill the sponsorship is forbidden, but for auto races two additional years of sponsorship are allowed.

Thus an option that on one hand effectively blocks all forms of public tobacco advertising and on the other hand saves some forms of advertising insignificant for public health could ensure the greatest support from public opinion. Not being a complete or absolute ban, but still blocking opportunities for tobacco advertising to promote tobacco consumption (especially for minors), the rational tobacco advertising ban will be supported by a vast majority of the Ukrainian population.

Proceeding from this, the following recommendations are offered.

Recommendations

The most expedient solution of the tobacco advertising problem is the introduction of a rational ban with the following provisions:

1. The ban should not be vague and should be well enforced. It should cover the direct and indirect forms of advertising, including the advertising of trademarks and sponsorship.
2. Terms such as “indirect advertising” and others should have precise definitions in the legislation.
3. The ban should be not be implemented immediately, but within a certain term (for example, one year) after its acceptance.
4. The preservation of the following kinds of tobacco advertising is possible:
 - Advertising in the special publications intended for those who are engaged in tobacco products trade;
 - Advertising in special shops that only sell tobacco products and accessories;
 - Advertising in foreign newspapers and magazines delivered for sale in Ukraine.

Ways of banning tobacco advertising in Ukraine

There are several ways to achieve a legislative ban of tobacco advertising:

- Make amendments to the law on advertising;
- Adopt a law on health protection and tobacco, which includes a ban on tobacco advertising;
- Adopt a special law devoted only to tobacco advertising.

The first way seems to be the most simple. Unfortunately, as experience from 1996, 2001, and 2003 shows, the parliament committee on mass media (which is responsible for the law on advertising) gives priority to the interests of the advertising industry above all other interests, and

this committee is not likely to agree to propose amendments that include a rational ban on tobacco advertising for final consideration. It is possible to try to insist on such amendments during the final reading. Experiences from 1996 and 2001 show that amendments such as the ones for an advertising ban can be accepted. However, these kinds of amendments could leave opportunities for indirect advertising or could have some flaws. With flaws such as these the President of Ukraine, who has the right of veto, could reject the law.

The second way is potentially more successive. In countries where tobacco advertising is forbidden, this legislative provision is included into the law on tobacco and health (for example, in the "Tobacco Control And Health Protection Act" in Poland or the "Act On Measures To Reduce Tobacco-Smoking" in Finland), but not into the law on advertising. The Health Protection Committee of parliament, which gives more priority to public health, will consider the given law. In this case, the law could be worked out in detail while taking foreign experience and just demands of various interested parties in Ukraine into account. However, there is also the danger this kind of bill could sit for a long time before coming under parliament's consideration.

The third way is practically impossible. The legislative process in Ukraine has already been settled, and so a bill devoted only to tobacco advertising will inevitably be sent to the Mass Media Committee, where, as in the past, it will be ignored. Thus, most preferable option is the preparation of the administration bill about tobacco control and the protection of health by providing a rational tobacco advertising ban, not stopping short of attempts to make changes to the law on advertising.

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